

The environment

1979 saw a number of major decisions on the environment. In March, Cabinet agreed to proclaim the first stage of Kakadu National Park and to ban whaling within Australia's 200-mile fishing zone. The whaling decision did not please the Western Australian Government, despite the fact that the Cheynes Beach whaling station at Albany had closed in 1978 (Submission 3038; also Decision 7875, not printed here).

In May, Cabinet decided to ban oil exploration on the Great Barrier Reef at least until the results of both short and longer term research were known. Arguments against the ban included Australia's diminishing self-sufficiency in oil and the fact that the risk of oil spills would be minimised by the quality of technology and supervision (Submission 3205; also Decision 8841, not printed here).

Selected documents

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FOR CABINET	
	Submission No. 3038 Copy No. 54
Title	POLICY ON WHALES AND WHALING
Minister	Ian Sinclair Minister for Primary Industry
Purpose/Issues	To revise Government policy in the light of the Report of the Inquiry into Whales and Whaling.
	
Relation to existing policy	Government whaling policy on conservation and utilisation is set out in Coalition Parties' Environment and Conservation Policy Statement of November 1975. Cabinet Decision No. 4536 of 1 February 1978, agreed to establishment of an independent Inquiry into Whales and Whaling and approved its terms of reference.
Legislation involved	Yes, but to be subject of separate Submission after consultation with States about most appropriate legislative measures for protection of cetacea or all marine mammals. The Whaling Amendment Bill would be withdrawn from Parliament.
Urgency: Critical/significant date?	Decision required before next meeting of International Whaling Commission in June 1979.
Consultation: Ministers/Depts consulted	Prime Minister and Cabinet; Science and Environment; Australian National Parks and Wildlife Service; Finance; Foreign Affairs, Attorney-General's, Business and Consumer Affairs, Industry and Commerce; Transport; Defence; Trade and Resources; and Australian Science and Technology Council.
Is there agreement?	Yes
Cost	
. this fiscal year	No additional Government expenditure
. year 2	No additional Government expenditure
. year 3	No additional Government expenditure
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Public Presentation - Minister's Proposals

<p>1. (a) When and where is the decision to be announced?</p>	<p>After Cabinet decision, in Canberra, by Prime Minister</p>
<p>(b) Is a draft press statement attached?</p>	<p>Yes - see <u>Attachment A</u></p>
<p>(c) How widely is the announcement to be circulated?</p>	<p>Normal press circulation plus special interest groups.</p>
<p>2. (a) Is a press conference considered necessary?</p>	<p>No</p>
<p>(b) What media opportunities will be taken?</p>	<p>Press Release</p>
<p>3. What supplementary material is required for backgrounding journalists, Members and special interest groups?</p>	<p>None</p>
<p>4. (a) What prior consultation with State Governments or other official bodies is required?</p>	<p>State Premiers (particularly of W.A.) to be advised of decision prior to public statement.</p>
<p>(b) Which special interest groups should be advised of the announcement?</p>	<p>Cheynes Beach Whaling Company and Project Jonah</p>
<p>5. What general or sectional support can be expected?</p>	<p>General public support (except from parts of W.A.) can be expected and support from conservationists, and Project Jonah specifically, is assured.</p>
<p>6. What criticism is anticipated and how will it be answered?</p>	<p>Though the issue has already been settled in Prime Ministerial correspondence, W.A. Government, Cheynes Beach Whaling Company and Albany community may be critical if no compensation is provided to Albany. Could be answered by pointing to Company's independent decision to close, the increasing use of substitutes for whale products, and declining world trade in whale products.</p> <p>Ban on importation after 1980 of goods containing whale products may stop certain perfumes and cosmetics which might attract some criticism and, depending on the source of the goods, have some trade relations implications.</p>

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BACKGROUND

1. Australia has been active in whaling and in the International Whaling Commission (IWC) for many years. The most recent statement of the Government's Whaling Policy (Environment and Conservation Policy Statement, November 1975) supports conservation of all whales based on the advice of the Scientific Committee of the IWC. This policy implicitly endorses "rational utilisation".

2. In March 1978 the Government established an independent Inquiry into Whales and Whaling. The Inquiry presented its Report on 18 December 1978. As all the States have fisheries or wildlife legislation that covers whales, the States' comments on the Report were sought. Australia's only whaling station (Cheynes Beach) closed permanently at the end of the 1978 season.

3. The December 1978 Special Meeting of the IWC set zero catch limits for sperm whale stocks in the principal whaling areas off mainland Australia, on the basis of the most recent scientific evidence on the state of the stocks. However, whaling for minke whales, and for sperm whales off other parts of the Australian mainland and its territories, is still permissible.

CONSIDERATION OF THE ISSUES

4. The Inquiry's Report focussed on whether whales should be viewed as a resource to be exploited or as a special form of wildlife to be fully protected. The Inquiry strongly supported protection for whales: its central conclusion is that Australian whaling should end, and that internationally Australia should seek a worldwide prohibition on whaling. The Inquiry's recommendations are at Attachment B.

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5. The Inquiry's recommendations for a ban on whaling within the 200 mile Australian Fishing Zone would be difficult to enforce completely because physical surveillance of all areas will probably not be practicable. However, substantial protection of whales can probably be achieved within the normal surveillance program.

6. There was also a recommendation for the banning of all imports of whale products, and goods containing them, by the beginning of 1981. A ban on such imports has actually been in force since 1973, but with concessional entry for imports from IWC member countries. Banning all imports of whale products would be most unlikely to cause significant problems for Australian industry. However, amongst the goods containing whale products, which will be banned, are certain perfumes and cosmetics. To the extent that these can be identified, imports of them will cease in 1981 and this may attract some criticism from users and from the source countries.

OPTIONS

7. I believe that substantial rejection of the Inquiry's recommendations is not a viable option because of the Inquiry's unequivocal support for the protection of whales, the strong support within the Australian community for this approach, the closure of Australia's only remaining whaling station, and the IWC's endorsement of scientific evidence that local sperm whale stocks are depleted.

8. The Government should therefore accept the Inquiry's recommendations, except for that proposing the prohibition of whaling in those waters off the Australian Antarctic Territory that might be included in the Australian Fishing Zone. A final decision has yet to be taken by Cabinet on whether to include

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these waters in the zone and the question of prohibiting whaling in those waters should therefore be deferred for consideration in the light of that decision.

LEGISLATION

9. The Report suggests that consideration be given to the replacement of the Whaling Act 1960 with new protection-oriented legislation covering at least all cetacea (i.e. whales, dolphins and porpoises) and possibly all other marine mammals (e.g. seals, dugongs). The Whaling Act would not be suitable as a basis for the protection of whales and other cetacea because its main thrust is the regulation of whaling. As an alternative to completely new legislation, it might be possible to amend the National Parks and Wildlife Conservation Act, 1975 so as to comprehend the matter.

10. I also believe that the States should be consulted about legislative measures before decisions about their nature and scope are taken by the Commonwealth.

COMMONWEALTH, STATE AND LOCAL GOVERNMENT RELATIONS

11. Most of the States have provided comments on the Inquiry's Report and with the exception of Western Australia, their reaction to a decision to support the Inquiry's recommendations is not likely to be unfavourable. Western Australia opposes the Inquiry's recommendations and continues to support the utilisation of whales as a resource.

RECOMMENDATIONS

12. I recommend that:-

- (a) the Government accept the recommendations of the Inquiry into Whales and Whaling, except that recommendation proposing the prohibition of whaling in those waters off the Australian Antarctic Territory that

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might be included in the Australian Fishing Zone:

- (b) a decision on the Inquiry's recommendation concerning whaling off the Australian Antarctic Territory be taken in the light of the final decision on extension of the Australian Fishing Zone to include waters off the Territory;
- (c) in giving effect to the rest of the Inquiry's recommendations, through the maintenance of an active involvement in matters of importance to the protection of whales both within Australia and internationally, the Government
 - (i) prohibit the continuance of whaling based in Australia,
 - (ii) subject to a decision on (b) above, prohibit other nations from whaling within the 200 mile Australian Fishing Zone,
 - (iii) give consideration to the repeal of the Whaling Act 1960 and its replacement with alternative legislation,
 - (iv) ban the importation into Australia of all whale products and goods containing them from 1 January 1981,
 - (v) continue to be an active member of, and support, the International Whaling Commission, and particularly its Scientific Committee, and support efforts to revise the International Convention for the Regulation of Whaling 1946 and in particular to extend the Commission's charter to the conservation of all cetacea,
 - (vi) seek to achieve a worldwide ban on whaling.

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- (vii) seek to ensure that consideration is given, both in its own planning and in international discussions, to the implications for whales of management regimes for other marine resources, and
- (viii) provide funds for research on whales at no less than present levels, subject to normal budgetary considerations; and
- (d) agree to the Prime Minister releasing the attached press statement (Attachment A), after informing the State Governments of the Government's decision.

IAN SINCLAIR
Minister for Primary Industry

CANBERRA, ACT
16 March 1979
PI No 1979/9

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FOR CABINET

Submission No. _____
Copy No. 54

Title	PETROLEUM EXPLORATION IN THE GREAT BARRIER REEF REGION
Minister	The Hon. Kevin Newman, M.P., Minister for National Development.
Purpose/Issues	To seek approval to implement certain recommendations of the Great Barrier Reef Royal Commissions with respect to exploration in the Region.
Relation to existing policy	The Government's policy is that no activities should take place that would in any way damage the Reef. The recommendations accord with this policy.
Legislation involved	None.
Urgency: Critical/significant dates	Discussion with Queensland involved. Urgent consideration by Cabinet is required concurrently with related Submission on Great Barrier Reef Marine Park.
Consultation: Ministers/Depts consulted	The Submission has been referred to the following Departments, Prime Minister and Cabinet, Science and the Environment and Attorney-General's.
Is there agreement?	Agreement received except for Dept. of Science and the Environment whose advice was not available at time of lodging.
Cost - this fiscal year - year 2 - year 3	Research cost not assessed - waiting on report from AMSTAC. This will be the subject of a separate Submission.



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Public Presentation - Minister's Proposals

1. (a) When and where is the decision to be announced?	Timing of announcement to be considered by Cabinet i.e. before or after talks with Queensland.
(b) Is a draft press statement attached?	No
(c) How widely is the announcement to be circulated?	As widely as necessary
2. (a) Is a press conference considered necessary?	Not at this stage
(b) What media opportunities will be taken?	To be decided at a later stage
3. What supplementary material is required for backgrounding journalists, Members and special interest groups?	
4. (a) What prior consultation with State Governments or other official bodies is required?	Early talks with Queensland
(b) Which special interest groups should be advised of the announcement?	Current permittees in Region
5. What general or sectional support can be expected?	Wide public support could be expected for decisions recommended
6. What criticism is anticipated and how will it be answered?	Petroleum industry is likely to criticize the decision. The criticism can be answered by stating decision is in line with recommendation of Chairman of the Royal Commissions.

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BACKGROUND

1. There are six petroleum exploration permits currently in force in the Great Barrier Reef (GBR) region. (Their history and present status is set out in Attachment A). Renewal applications for the permits were lodged by the permittees in 1974. Queensland, which is responsible for administration of the Petroleum (Submerged Lands) Act, has referred the renewal applications to the Commonwealth in accordance with the requirement of the 1967 Offshore Petroleum Agreement to consult, but no decision has yet been made.

2. The Royal Commissions on petroleum drilling in the GBR area reported in November 1974 (see Attachment B.). All three Commissioners agreed that drilling "should not be permitted on any cay, island, or reef or national park or marine park when declared." Two Commissioners considered that drilling could be permitted in certain areas provided recommended buffer zones and safety precautions are strictly applied and supervised.

The Chairman's minority view was that drilling should be postponed, and permitted only after the results are known of both the short and long term research set out in the Commission's Report. All three Commissioners agreed this research should be carried out, but the majority considered only limited short term research was necessary before drilling would take place, and that the information obtained from the short and long term research would be useful for the revision of buffer zones. Of the areas considered by the majority as appropriate for drilling, the Chairman indicated the Capricorn Channel would present the least risk of detriment to shores and ecosystems.

3. An interdepartmental committee was formed in 1976 to examine possible research programs. A Cabinet Submission on petroleum exploration and the associated research was lodged in October 1977 jointly by the Minister

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for National Resources and the Minister for EBCD. The Submission was not considered prior to the December 1977 elections and therefore lapsed. ASTEC commented on the Submission and suggested a 5 year program costing of the order of \$10 m. At the Prime Minister's direction a paper canvassing an appropriate reef environment research program was referred to AMSTAC. AMSTAC is considering the proposal at present.

4. The GBR Marine Park Authority prepared a draft report last year recommending the proclamation of the Capricornia Section of the Park. The eastern boundary of the proposed Park overlaps permits Q/4P and Q/5P but, apart from a small part, avoids areas of permits sought in renewal applications. A separate Submission on issues related to the Marine Park is being lodged concurrently. Position of permits shown at Attachment C.

ISSUES FOR CONSIDERATION

5. Arguments against Exploration and Exploitation

- (a) No absolute guarantee can be given that an oil spill will not occur.
- (b) Long term effect of oil spillage on the GBR is unknown.
- (c) The possibility exists of detrimental effects to tourist or recreational areas.

6. Arguments in favour of Exploration and Exploitation

- (a) Australia is deficient in oil reserves, (about 70% self-sufficient now but this will decline to about 50% in 1985, without further finds).
- (b) The permittees have a legal right to renewal of the permits. Although abrogation of their rights could lead to a compensation claim, the Solicitor-General has advised that no acquisition of property within the meaning of S.51(31) of the Constitution would be involved.

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- (c) There are a number of sedimentary basins within the Region which could be prospective for the discovery of oil or gas.
- (d) Continual improvement in offshore technology and strict supervision would minimise the risk of spills.

7. Other Issues

- (a) The GBR Marine Park Act provides that all mining is prohibited in areas declared as Marine Parks. The declaration of a marine park can be revoked only in accordance with a resolution passed by both Houses of Parliament, i.e. the option of exploration at some future date is in effect closed.
- (b) Any petroleum operations must meet the requirements of the Environment Protection (Impact of Proposals) Act 1974.
- (c) The permittees have applied for renewal but have not been exerting any pressure for renewal.

OPTIONS

- 8. A. Adopt the recommendations of the majority of the Royal Commissions, i.e. resume exploration (including drilling) in certain areas, with concurrent short and long term research. Permits could be renewed but amendment of / ^{legislation would be needed} There would be no impediment to the declaration of the Capricornia Section.
- B. Adopt a compromise between the majority recommendations and those of the Chairman by limiting exploration and drilling initially to the Capricorn Channel area. Short term research should be undertaken before permission is given to drill; longer term research could be undertaken concurrently with the exploration program. This would confine exploration to the Capricorn Channel area outside the buffer zones. Under this option

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permits would be renewed.

- C. Decide that no exploration be undertaken in the Great Barrier Reef Region. This would avoid the costs of research and would mean the cancellation of permits possibly giving rise to a compensation claim. Alternatively permittees may be required to surrender permits. There is no indication of their possible reaction.
- D. Adopt the Chairman's recommendation that there be no further exploration until the long term research is completed. The cost of the research could be very substantial (several million dollars) and the research would extend over several years with no guarantee that the results would be conclusive. Research will be the subject of another Submission, after the receipt of ANSDAC's recommendations. A decision on renewal of permits would be postponed. However, no objection is seen to the declaration of the Capricornia Section.

FINANCIAL CONSIDERATIONS

9. (a) Discoveries in the GBR region would increase our oil and gas resources and could lead to import savings and revenue gains.
- (b) If they are not permitted to resume exploration, companies presently holding exploration permits might claim compensation for previous exploration expenditure (approximately \$3.6 million). See also para. 6(b) on page 4.
- (c) Research costs would be high - ASTEC previously recommended \$10 million over 5 years.

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COMMONWEALTH/STATE AND LOCAL GOVERNMENT RELATIONS

10. It will be necessary for the Commonwealth and Queensland Governments to consult closely before any final decisions are taken because of the joint responsibilities under the current offshore petroleum legislation. The Queensland Minister for Mines and Energy in a statement in Parliament on 22 May pointed out that permits remain in force and said that he will respect the legislation and respect the findings of the Royal Commissions.

RECOMMENDATIONS

11. It is recommended that Cabinet agree:
- (a) that in line with the recommendations of the Chairman of the Royal Commissions there should be no further exploration for petroleum in the GBR Region and that there should be no renewal of permits until the results are known of both short and longer term research.
 - (b) that a Submission on an appropriate research program relating to the GBR eco-system be considered by Cabinet as soon as possible after recommendations of AMSTAC are known.
 - (c) that Queensland be advised of the course of action proposed and their concurrence sought.

(KEVIN NEMMAN)

30 May 1979